

The Berryville Town Council held five Public Hearings on September 12, 2006 in the Town Council Chambers at 15 E. Main Street, Berryville, Virginia.

The following were present:

Council - Richard G. Sponseller, Mayor  
Wilson Kirby  
Lawrence Russell, III  
Barry Nicholson  
Allen Kitselman

Absent - Harry Lee Arnold, Jr., Recorder

Staff - Keith R. Dalton, Town Manager  
Christy Dunkle, Asst. Town Mgr/Town Planner  
Chief Neal White, Police Department  
Dave Tyrell, Utilities Director  
Celeste Heath, Town Clerk

Press - Clarke Times Courier: Rebecca Maynard

Mayor Sponseller called the public hearing to order to hear comments on the following: **A proposed text amendment to Article I Definitions, of the Zoning Ordinance in order to define “family”.**

There was no public comment.

Upon motion by Mr. Russell, second by Mr. Kitselman, the public hearing was closed. The motion passed unanimously.

Mayor Sponseller called the public hearing to order to hear comments on the following: **A proposed text amendment to Article I Definitions, of the Zoning Ordinance modifying the definition of “dwelling unit” to limit the number of occupants to 1 person for every 200 square feet of heated area.**

There was no public comment.

Upon motion by Mr. Russell, second by Mr. Kirby, the public hearing was closed. The motion passed unanimously.

Mayor Sponseller called the public hearing to order to hear comments on the following: **Proposed changes in the Planning and Zoning Fees establishing costs for camera inspection of sanitary sewer laterals and utility inspections.**

There was no public comment.

Upon motion by Mr. Kitselman, second by Mr. Kirby, the public hearing was closed. The motion passed unanimously.

Mayor Sponseller called the public hearing to order to hear comments on the following: **A proposal to grant Washington Gas (Shenandoah Division) an easement on the property of the Town of Berryville.**

There was no public comment.

Mr. Nicholson asked if there is a concern with any conflict that might occur with the gas line if the town needs to replace the adjacent water line. Mr. Tyrrell said that it should not be a problem.

Mr. Tim Hocklin of Shenandoah Gas was present and said that there should be no equipment weight issues unless the equipment is abnormally large and even then Shenandoah Gas has ways to protect the gas line during any adjacent construction. He said that he believes that Shenandoah Gas would be able to accommodate any construction that the town would need to do, and that he would confirm that with his office.

Upon motion by Mr. Kitselman, second by Mr. Kirby, the public hearing was closed. The motion passed unanimously.

Mayor Sponseller called the public hearing to order to hear comments on the following:  
**Proposed amendments to the Construction Standards and Specifications Manual.**

Ms. Dunkle passed out three modifications to the standards that were requested by the Virginia Department of Health.

There was no public comment.

Mr. Tyrrell then explained the three additions to the Construction Standards. He said that the first change is to add the Virginia Department of Health Waterworks Regulations to those regulations that must also be complied with and that the second change is a different formula for calculating peak hour demand. He said that this change is not mandated but that he recommends it because it gives the town a buffer in calculating water demand. The third amendment requires drainage capability for fire hydrant weep holes.

Upon motion by Mr. Kitselman, second by Mr. Nicholson, the public hearing was closed. The motion passed unanimously.

Mayor Sponseller called the TOWN COUNCIL MEETING to order at 7:40 p.m. on September 12, 2006 in the Town Council Chambers at 15 E. Main Street, Berryville, Virginia.

On motion by Council member Nicholson, seconded by Council member Kitselman and passed, the minutes of the Council meeting of August 15, 2006 were approved as written.

Recorded Vote:      Aye – Richard G. Sponseller, Mayor  
                             Wilson Kirby  
                             Allen Kitselman  
                             Barry Nicholson  
                             Lawrence Russell, III  
  
                             Nay – None  
  
                             Absent – Harry Lee Arnold, Jr., Recorder

## **Citizen's Forum**

Robert Sherwood, 10 Farmers Lane, said that he is the Vice President of Berryville Main Street. He reported that he, his wife and Ms. Dunkle attended a conference on historic preservation and preserving downtown in Orange this month. He said that the conference was excellent and that they learned a lot about sustaining a viable main street. He noted that there are 40,000 small towns in the U.S. and only about 400 that are doing well and that Berryville is one of those 400 towns.

## **Report of the Mayor, Richard G. Sponseller**

### **Water Conservation**

Mayor Sponseller said that the rain has alleviated some of the drought conditions and it appears that the public has responded reasonably well to the voluntary water restrictions. He urged citizens to continue to conserve water.

## **Action on Public Hearings**

It was moved by Mr. Nicholson, seconded by Mr. Kitselman that the Council of the Town of Berryville approve the attached ordinance amending Article I Definitions of the Zoning Ordinance of the Town of Berryville defining "family".

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

It was moved by Mr. Nicholson, seconded by Mr. Kitselman that the Council of the Town of Berryville approve the attached ordinance amending Article I Definitions of the Zoning Ordinance of the Town of Berryville defining "dwelling units".

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF AMENDMENT TO ARTICLE I,  
DEFINITIONS OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

Date: September 12, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I move that the Council of the Town of Berryville approve the attached ordinance amending Article I Definitions of the Zoning Ordinance of the Town of Berryville defining "family".

VOTE:

Aye – Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

ATTEST:

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Harry Lee Arnold, Jr., Recorder

AN ORDINANCE AMENDING  
ARTICLE I, DEFINITIONS,  
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

Be it ordained, by the Council of the Town of Berryville, that the attached ordinance, Article I, of the Town of Berryville Zoning Ordinance shall be, and is hereby amended by modifying the definition of "family".

Date: September 12, 2006

VOTE:

Aye –	Richard G. Sponseller, Mayor Wilson Kirby Allen Kitselman Barry Nicholson Lawrence Russell, III
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Nay –	None
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Absent –	Harry Lee Arnold, Jr., Recorder
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ATTEST: \_\_\_\_\_  
Harry Lee Arnold, Jr., Recorder

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF AMENDMENT TO ARTICLE I,  
DEFINITIONS OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

Date: September 12, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I move that the Council of the Town of Berryville approve the attached ordinance amending Article I Definitions of the Zoning Ordinance of the Town of Berryville defining "dwelling unit".

VOTE:

Aye – Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

ATTEST:

\_\_\_\_\_  
Harry Lee Arnold, Jr., Recorder

AN ORDINANCE AMENDING  
ARTICLE I, DEFINITIONS, OF THE  
TOWN OF BERRYVILLE ZONING ORDINANCE

Be it ordained, by the Council of the Town of Berryville, that the attached ordinance, Article I, of the Town of Berryville Zoning Ordinance shall be, and is hereby amended by modifying the definition of "dwelling unit".

Date: September 12, 2006

VOTE:

Aye –	Richard G. Sponseller, Mayor Wilson Kirby Allen Kitselman Barry Nicholson Lawrence Russell, III
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Nay –	None
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Absent –	Harry Lee Arnold, Jr., Recorder
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ATTEST: \_\_\_\_\_  
Harry Lee Arnold, Jr., Recorder

It was moved by Mr. Nicholson, seconded by Mr. Kitselman that the Council of the Town of Berryville approve the attached changes to the Planning and Zoning Fee Schedule establishing fees for sanitary sewer lateral camera inspections and utility inspections.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

It was moved by Mr. Nicholson, seconded by Mr. Kitselman that the Council of the Town of Berryville approve the attached changes to the Construction Standards and Specifications Manual and Standards Details.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

It was moved by Mr. Nicholson, seconded by Mr. Kitselman that the Council of the Town of Berryville grant a 10-foot by 25-foot easement to Washington Gas for a gas line on the parcel of land owned by the Town of Berryville (Tax Map #14-A-53A). Future construction costs for protection of the gas line in the event any repair or replacement of the town's water line will be borne by Washington Gas. The Mayor is authorized to sign all documents related to this transaction.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder



BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF CONSTRUCTION STANDARDS AND  
SPECIFICATIONS MANUAL AND STANDARD DETAILS AMENDMENTS

Date: September 12, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I move that the Council of the Town of Berryville approve the attached changes to the Construction Standards and Specifications Manual and Standard Details.

VOTE:

Aye – Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

ATTEST:

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Harry Lee Arnold, Jr., Recorder

BERRYVILLE TOWN COUNCIL  
MOTION FOR APPROVAL OF PLANNING AND ZONING FEE AMENDMENTS

Date: September 12, 2006

Motion By: Barry Nicholson

Second By: Allen Kitselman

I move that the Council of the Town of Berryville approve the attached changes to the Planning and Zoning fee schedule establishing fees for sanitary sewer lateral camera inspections and utility inspections.

VOTE:

Aye – Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

ATTEST:

\_\_\_\_\_  
Harry Lee Arnold, Jr., Recorder

## Planning and Zoning Matters

### Monthly Report

Ms. Dunkle reported that Planning Commission held 2 public hearings on Tuesday, August 22, 2006 regarding a site plan at 101 East Main Street a site plan at 16 Crow Street. She said that the Berryville Area Development Authority did not have a meeting in August. She reported that the Architectural Review Board held a meeting on Wednesday, September 6 and approved a handicapped accessible ramp at 101 East Main Street, a storage shed behind Blue Ridge Hospice, located at 24 North Buckmarsh Street, and a fence at 115 North Buckmarsh Street. The Board of Zoning Appeals did not have a meeting.

### Annexation Area B-8

Ms. Dunkle presented a map of the proposed annexation area. She said the area includes Green Hill Cemetery, the Clarke County Business Park and some residual roadways. Mr. Dalton said that this annexation is intended to clean up a few areas.

Mr. Nicholson asked about the parts of the Berryville Area that have not been annexed. Mr. Dalton said that Sub-Areas 1 and some of Sub-Areas 6 and 7 including portions of the Old Soldier's Rest property, the Byrd property and the Friant property.

Mr. Kirby said that the town limit sign on the south end of Route 240 is in the wrong place. Mr. Dalton said that he would take care of it.

A public hearing on the matter was set for the October 10, 2006 meeting.

### Outdoor Burning

Ms. Dunkle said that there has been quite a bit of land disturbance with no approved plan at Battlefield Estates. Because the owner indicated that this is a forestry harvest she has been in contact with the Department of Forestry and Lord Fairfax Soil and Water Conservation Commission. She then presented a letter that she drafted, addressed to Ketocin Land Company.

Mr. Kirby said that there is a limitation of 2500 square feet of land disturbance by the State E & S ordinance, and then a permit is needed. Ms. Dunkle said the owner says that he has an agricultural permit for forestry harvest but she has not seen it nor has her contact at the Department of Forestry.

Mayor Sponseller said that this is a subdivision that is under construction, not agricultural land. He asked if any trees are being re-planted on the land.

Ms. Dunkle said that the letter is a notice to comply with the town's E&S ordinance. The Town Council directed Ms. Dunkle to send the letter.

### Report of the Town Manager – Keith Dalton

Mr. Dalton said that the Public Works Department is working a water line project that is not in the CIP and would like to get council approval of the project. There is a 4-inch line that connects to an 8-inch line at the end of Blue Ridge Street that has had problems with breaks. Mr. Dalton asked if \$22,000 from contingency funds could be used to replace 300 feet of line while a commercial project has the area dug up. He said that \$38,000 would be encumbered later to complete the 500 feet to the end of Blue Ridge Street. He said that there is \$20,356 in contingency and that the rest could be taken out of the maintenance account.

It was moved by Mr. Kirby, seconded by Mr. Russell that the Council of the Town of Berryville approve \$22,000 in contingency and maintenance funds to complete a water line replacement at the end of Blue Ridge Street.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

Mr. Dalton then apprised the council of the meeting schedule for the next few months. Mr. Tyrell said that a meeting would be held for everyone affected by or taking part in the upgrade of the waste water treatment facility in order to get the engineering information to as many people as possible.

### Water and Sewer Rate Increase

Mr. Dalton said that the proposed increase would be from \$4.60 to \$11.00 per 1,000 gallons. He said that if a public hearing is set on the matter a mailing can be sent to all customers on Thursday and that he has already spoken to the press in an attempt to get the information out to customers. He said that another adjustment to the availability fee is warranted.

Mr. Dalton explained that the annual debt service will increase to \$1,367,000. The remainder will be raised from user fees, availability fees and grants and the town will commit at least \$2,500,000 to the project.

Mr. Dalton explained that in October the town will apply for a nutrient reduction grant. At the current user fee the town is eligible for a 75% grant. The new rate could qualify the town for a 90% grant and that is worth \$1,500,000. He said that the new rate would generate \$600,000 in annual revenue for the sewer fund which would be used for the new plant and for upgrade of the collection system.

Mr. Dalton said that in his discussions with the Mayor and other council members, one concern was users' ability to budget and that 60 days between readings could cause

major financial problems for somebody with a leak. He said that because of these concerns he has begun the process to move to monthly billing on October 1.

### **Reports of Standing Committees**

- a. BADA Liaison  
No meeting.

- b. Budget/Finance/CIP – Richard G. Sponseller, Chair

Mayor Sponseller reported that revenues are at 14.28% and expenses are at 17.93%

#### **Purchasing Policy**

Ms. Moreland presented a new purchasing policy. She said that the policy is reformatted, modernized and in compliance with Virginia Public Procurement Act.

It was moved by Mr. Kitselman, seconded by Mr. Russell that the Council of the Town of Berryville adopt the attached revised Procurement Policy and that is be effective October 1, 2006.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor  
                              Wilson Kirby  
                              Allen Kitselman  
                              Barry Nicholson  
                              Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

- c. Community Improvements – Allen Kitselman, Chair

Mr. Kirby moved, seconded by Mr. Kitselman to approve the minutes of the August 9, 2006 Community Improvements Committee meeting. The vote passed unanimously by voice vote.

Recorded Vote:       Aye: Allen Kitselman  
                              Wilson Kirby

Nay: None

- d. Personnel/Appointments - Richard Sponseller, Chair

It was moved by Mr. Kirby, seconded by Mr. Nicholson that the Council of the Town of Berryville appoint Nancy Bishop to the Berryville Architectural Review Board for a four year term to begin September 13, 2006 and end on September 13, 2010.

Recorded Vote:       Aye – Richard G. Sponseller, Mayor

Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

- e. Planning Commission Liaison – Lawrence Russell, Chair  
Nothing to add.

- f. Police and Security Committee – Barry Nicholson, Chair

Police Department – Monthly Report – Chief Neal White

Mr. Dalton said that this matter was supposed to be held this evening but it was discovered that state law requires state approval of open burning ordinances unless the state's model ordinance is adopted. He suggested that the council get public input on the matter. The council decided to discuss the matter further at the next meeting and hold a public hearing in November.

- g. Streets and Utilities - Wilson Kirby, Chairman

Mr. Nicholson said that the said that the committee has come to the conclusion that there should not be different availability fees for current residents.

**Closed Session**

It was moved by Council Member Nicholson, seconded by Council Member Kitselman that the Council of the Town of Berryville enter into a Closed Session Pursuant to Section 2.2-3711.A.30 of the Code of Virginia, 1950, as amended, for the purpose of discussing the award of a public contract involving the expenditure of public funds.

Recorded Vote: Aye – Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

It was moved by Council Member Russell, second by Council Member Nicholson that the Council of the Town of Berryville adjourns Closed Session and returns to Regular Session.

Recorded Vote: Aye – Richard G. Sponseller, Mayor  
Wilson Kirby

Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

It was moved by Council Member Kitselman, second by Council Member Russell that the Council of the Town of Berryville adopt the attached Resolution Certifying Closed Session.

Recorded Vote: Aye – Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

It was moved by Council Member Nicholson, seconded by Council Member Kitselman that the Council of the Town of Berryville authorizes the Town Manager to finalize and sign the contract with Whitman, Requardt and Associates, LLP for preliminary engineering phase services for the Town of Berryville wastewater treatment expansion and upgrade.

Recorded Vote: Aye – Richard G. Sponseller, Mayor  
Wilson Kirby  
Allen Kitselman  
Barry Nicholson  
Lawrence Russell, III

Nay – None

Absent – Harry Lee Arnold, Jr., Recorder

There being no further business, on motion by Council Member Kitselman, seconded by Council Member Kirby and passed by voice vote, the Council meeting was adjourned at 9:05 p.m.

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Richard G. Sponseller, Mayor

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Harry Lee Arnold, Jr., Recorder

TOWN COUNCIL  
MOTION FOR CLOSED SESSION

DATE: September 12, 2006

MOTION BY: Lawrence Russell, III

SECOND BY: Barry Nicholson

I move that the Council of the Town of Berryville enter Closed Session pursuant to Section 2.2-3711.A.30 of the Code of Virginia, 1950, As Amended, for the purpose of discussing the award of a public contract involving the expenditure of public funds.

Aye: Richard G. Sponseller, Mayor  
Allen Kitselman  
Barry Nicholson  
Wilson Kirby  
Lawrence Russell, III  
Harry Lee Arnold, Jr., Recorder

Nay: None

Absent: Harry Lee Arnold, Jr., Recorder

ATTEST: \_\_\_\_\_  
Harry Lee Arnold, Jr., Recorder



## **RESOLUTION**

MEETING DATE: September 12, 2006

MOTION BY: Lawrence Russell, III

SECOND BY: Barry Nicholson

### **CERTIFICATION OF CLOSED SESSION**

WHEREAS, the Council of the Town of Berryville, Virginia (Council), has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Council that such closed meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

### **VOTE:**

Aye: Richard G. Sponseller, Mayor  
Allen Kitselman  
Barry Nicholson  
Wilson Kirby  
Lawrence Russell, III

Nay: None

Absent During Vote: None

Absent During Meeting: Harry Lee Arnold, Jr., Recorder

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Harry Lee Arnold, Jr., Recorder